

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MARSHALL FREIDUS, et ano.,

Plaintiffs,

-against-

09 Civ. 1049 (LAK)

ING GROUP N.V., et al.,

Defendants.  
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**ORDER**

LEWIS A. KAPLAN, *District Judge*.

Though not a party to this action, Joseph Silliman previously moved to replace Belmont Holdings Corporation as lead plaintiff after the Court ruled that Belmont lacked standing to pursue its claims. The Court denied the motion on the ground that Mr. Silliman's claim was time-barred. DI 178-79.

Mr. Silliman now moves to intervene as a plaintiff, either as of right or as a matter of discretion, in order to assert on behalf of an alleged class the claims that the Court previously held to be time-barred. He acknowledges that the court "is likely to deny his motion to intervene as futile," but evidently hopes somehow to buttress his ability from the Court's previous order.

Mr. Silliman's expectation was entirely correct. "[F]utility is an appropriate basis for denying a motion to intervene." *In re Merrill Lynch & Co., Inc. Research Reports Secur. Litig.*, Nos. 02 MDL 1484 (JFK), 02 Civ. 8472 (JFK), 2008 WL 2594819, at \*5 (S.D.N.Y. June 26, 2008) (collecting cases). As Mr. Silliman's claim is time-barred for the reasons previously stated, his motion to intervene [DI 180] is denied.

SO ORDERED.

Dated: September 14, 2012



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Lewis A. Kaplan  
United States District Judge

